IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.514 OF 2004
IN
SUMMARY SUIT NO. 731 OF 2004

R.T.Exports Ltd ..Plaintiffs

Vs.

Mallika International Ltd.and Anr. ..Defendants

Mr.M.S.Rane i/b Purnanand and Co. for the plaintiffs

Mr.Pravin Diwan i/b Kanga and Co. for the defendants

CORAM : S.U.KAMDAR, J
DATED : 27TH SEPTEMBER, 2005

P.C.:

1. The present suit is filed for the recovery of Rs.10,77,322/-. The claim arises out of written agreement at Ex.A to the plaint. The said agreement is duly signed by both the parties and was arrived at by the intervention of the Mediator. The learned counsel for the defendants has filed affidavit in reply disputing the said payment and has relied upon compilation of documents and contended that this amount is not due and payable. Defendants have relied upon agreement between R.T.Export Ltd. and Mallika International LL.C.

and the statement showing that the monies payable under the old accounts were to be adjusted towards office expenses and by giving such adjustment defendants claims that amount is not due and payable. The documents produced are hand written and not signed by either of the parties. There is no corroborative evidence in support of the said documents. In that view of the matter, I do not find any merits in the defence. However, with a view to give an opportunity to the defendant to defend the case, I direct the defendants to deposit a sum of Rs.10 Lacs failing which plaintiffs will be entitled to decree. If the said amount is deposited the Prothonotary and Senior Master is directed to invest the same in any Nationalised Bank in Fixed Deposit initially for a period of 3 years and then renew the same from time to time till further orders of this court. If the amount is deposited then suit is to be transferred to the list of Commercial Causes. Written Statement or points of defence to be filed within four weeks from the date of deposit of the said amount. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four

weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.